

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

UNITED STATES OF AMERICA,  
Plaintiff,

v.

ALLEN JOHN FOOS,  
Defendant.

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Case No.11-4012-01-CR-C-FJG

**ORDER**

Pending before the Court are (1) Defendant's pro se motion for hearing on his pro se motion to dismiss the indictment (Doc. No. 13); and (2) the government's motion to strike the pro se motion (Doc. No. 16). On October 11, 2011, United States Magistrate Judge Matt J. Whitworth held a conference regarding the pending motions. Thereafter, on October 14, 2011, Judge Whitworth entered a report and recommendation (Doc. No. 19) which recommended the Court deny defendant's motion to dismiss (Doc. No. 13) and deny the government's motion to strike (Doc. No. 16) as moot. Objections to Judge Whitworth's report and recommendation were due fourteen days after receipt of the copy of the report and recommendation; none were filed.

The Court, after independent review of the record and applicable law, adopts and incorporates by reference herein, the Magistrate's findings and conclusions. Therefore, defendant's pro se motion to dismiss (Doc. No. 13) is **DENIED**, and the government's motion to strike (Doc. No. 16) is **DENIED AS MOOT**.

**IT IS SO ORDERED.**

/s/Fernando J. Gaitan, Jr.  
Chief United States District Judge

Dated: November 23, 2011  
Kansas City, Missouri